

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

**California Code of Regulations
Title 15, Crime Prevention and Corrections
Division 3, Department of Corrections**

NOTICE IS HEREBY GIVEN that the Director of the Department of Corrections (CDC), pursuant to rulemaking authority granted by Penal Code (PC) Section 5058.3 in order to implement, interpret and make specific PC Section 5054, proposed to amend Sections 3044, 3092, 3138, and 3190 in the California Code of Regulations (CRC), Title 15, Division 3 relating to statewide vendor packages.

PUBLIC HEARING:

Date and Time: March 5, 2004, 9:00 am to 12:00 pm
Place: Resource Agency Auditorium
1416 Ninth Street
Sacramento, CA 95814
Purpose: To receive comments about this action.

PUBLIC COMMENT PERIOD:

The public comment period will close March 5, 2004 at 5:00 pm. Any person may submit public comments in writing (by mail, by fax, or e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the Department of Corrections, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916)322-3842; or by e-mail at RPMB@corr.ca.gov before the close of the comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:

**Rick Grenz, Chief,
Regulation and Policy Management Branch
Department of Corrections
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 322-9702**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**A. Cunningham
Regulation Management Unit
Telephone (916) 322-9702**

Questions regarding the substance of the proposed regulatory action should be directed to:

**T. Rougeux, Chief
Institution Services Unit
Telephone (916) 323-6816**

LOCAL MANDATES:

This action imposes no mandates on local agencies or school districts, or a mandate, which requires reimbursement pursuant to Government Code Section 17561.

FISCAL IMPACT STATEMENT:

- Cost or savings to any state agency: Savings FY 03/04 \$1,744,000
- Other non-discretionary cost or savings imposed on local agencies: None
- Cost or savings in federal funding to the state: None

EFFECT ON HOUSING COSTS:

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

EFFECT ON SMALL BUSINESSES:

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business, because they are not affected by the internal management of state prisons.

ASSESSMENTS OF EFFECTS ON JOB AND/OR BUSINESS CREATION, ELIMINATION OR EXPANSION:

The Department has determined that the proposed regulation will have no affect on the creation of new or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California.

CONSIDERATION OF ALTERNATIVES:

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulatory action.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared and will make available the text and the Initial Statement of Reasons of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, Initial Statement of Reasons, and the Notice of Proposed Action will also be made available on the Department's website <http://www.cdc.state.ca.us>.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS:

Following its preparation, a copy of the final statement of reasons may be obtained from the Department's contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

PC Section 5054 vests with the Director the supervision, management and control of the prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of inmates.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

PC Section 5058.3 authorizes the Director to adopt, amend, or repeal emergency regulations conducted pursuant to Government Code Section 11340.

- Directs facilities to make available to inmates the procedures for the receipt of packages from their correspondents via departmentally-approved statewide vendors.
- Allows Condemned Grade A and Grade B inmates to be afforded the same property privileges as inmates assigned to Privilege Group A and Privilege Group D, respectively.
- Amends language regarding the facility's right to refuse to deliver a package if the inmate is not qualified. Provides the vendor direction when a package is in excess of the 30-pound limit or is received in a damaged condition.
- Permits inmates to possess in their quarters/living area, state-issued property and authorized personal property based upon privileges in Section 3044 and subject to disciplinary provisions in Sections 3314 and 3315. Language is deleted that allowed individual institutions to establish a list of personal property items and the maximum amount of such items an inmate may possess. This action will limit the amount and restrict the type of personal property an inmate is allowed to possess, as well as aid in the safety and security of the prisons and the public.
- Allows inmates to acquire authorized personal property packages based upon their privilege group, pursuant to Section 3044. Personal property packages include various items, which can be purchased by inmate correspondents and sent to the inmate via approved vendors, or items purchased by inmates from vendor catalogs and shipped to the inmate via approved vendors. These packages, also referred to as "quarterly packages," shall be shipped to the inmate's institution/facility by the departmentally-approved vendor.
- Allows inmates to acquire special purchases of authorized personal property items from departmentally-approved vendors. These special purchases shall only include health care appliances, correspondence courses, religious items, handicraft material, legal material, entertainment appliances, musical instruments and the purchase of books and subscriptions to periodicals. These special purchases are subject to designated staff approval, the Penal Code, the Title 15, and qualifying privilege groups.